IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 607 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

ANIL NAVINCHANDRA PATEL

Versus

REGISTRAR BIRTHS & DEATHS REGISTRATION

Appearance:

1. Special Civil Application No. 607 of 2003

MR HASIT DILIP DAVE for Petitioner No. 1

RULE SERVED BY DS for Respondent No. 1

CORAM : MR.JUSTICE C.K.BUCH

Date of decision: 06/02/2003

ORAL JUDGEMENT

1. Heard ld. counsel Mr. H.D.Dave for the petitioner. Respondent though served, has not appeared. While issuing Rule on 27.1.2003, the Court has

specifically ordered that the matter be listed for final hearing today i.e. on 6.2.2003.

2. By invoking the jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner has prayed that the respondent be directed to effect the change of birth date of the petitioner from 30.11.1960 to 29.11.1960. During the course of arguments, ld. counsel also prayed that the name of the petitioner be also entered in column no.1 of the birth register. It is categorically averred by the petitioner that he is born on 29.11.1960 and time of birth was before 00.00 hours. However, the person who had gone to the authority for registration of the birth of the present petitioner, had erroneously and committing bonafide mistake, stated date of birth as 30.11.1960. It is further submitted that as the parents were aware about the exact time of birth, when the petitioner was admitted in the school, his birth date was mentioned as 29.11.1960 and the same is registered accordingly. In support of his arguments, the petitioner has produced School Leaving Certificate at page-10 of the petition. Copy of the affidavits sworn by both father and mother of the petitioner, are also produced at page nos. 11 & 12.

3. The grievance of the petitioner is that though he had approached the authority to correct the birth date from 30.11.1960 to 29.11.1960, the authority refused to alter the entry accordingly on the ground that authority has no statutory power to correct the same as the petitioner has approached the authority after lapse of several years. It is submitted that the authority concerned ought to have accepted the request to rectify the mistake being bonafide and genuine and ought to have corrected the birth date as requested.

4. This Court, on three different occasions, has considered the aspects which have been brought to the notice of this court by the present petitioner and directed the concerned authority to correct the entry in the Register of Birth & Death being maintained under the provisions of the Registration of Births & Deaths Act,1969. (hereinafter referred to as the Act) In the case of Dr. Sukumar Mehta v/s District Registrar, Births & Deaths, reported in 1993(1) GLR P.93, this Court has held that there is a power to corrcet the entry incorrectly made and that presupposes a power to correct an entry even correctly made at the instance of a concerned citizen. Discussing the relevant provisions of Sections 14, 15 & 16 of the Act, the Court allowed the petition and directed the authority to entertain the

application of the petitioner by accepting the same and to correct the entry in the birth register. The Court also directed the authority concerned to change the name of female child of the petitioner from "Suchi" to "Prachi". In another decision in the case of Mulla Faizal @ Fazilabanu Suleman Ibrahim v/s State of Gujarat & Others, reported in 2000(2) GLR 1553, the Division Bench of this Court (Coram: Hon'ble Mr. D.M.Dharmadhikari, Chief Justice & Hon'ble Mr.Justice C.K.Thakkar), while dealing with Letters Patent Appeal, has held that the function of the authority to post the entries in the Birth register are under a duty to correct the details regarding the correctness of those entries and High Court can exercise its writ jurisdiction for granting proper relief to a citizen. Similar orders have been passed by this Court in the case of Vimal M.Patel v/s State of Gujarat & Anr., reported in 2001(3) GLR P.2484. It is rightly argued by the ld. counsel Mr. Dave for the petitioner that the case of the petitioner is squarely covered by the aforesaid three decisions as well as by the recent decision of this Court (Coram : A.M.Kapadia,J) in in the case of Dipika Arvindkumar Pancholi v/s State of Gujarat while dealing with Special Civil Application No.6962/2002 decided on 9.10.2002.

5. In view of settled legal position referred to above and in view of the facts and circumstances of this case, the Court is satisfied that the case of the present petitioner is squarely covered by the aforesaid decisions and mistake committed in recording entry in Birth register which is bonafide and genuine, requires to be corrected as prayed for by the petitioner. Under the circumstances, this petition is allowed. Respondent is directed to entertain the application submitted by the petitioner and correct the birth date of the petitioner from 30.11.1960 to 29.11.1960 as requested and accordingly made entry in column no.3 of the Birth Certificate. The respondent is also directed to record the name of the petitioner viz "Anil" in column no.1 of the Birth Certificate as at the relevant time, as revealed from the entry made in column no.1 "name is yet not given" and the same is quite natural as on the date on which said entry/endorsement was made, formalities of religious ceremony popularly known as "Namkaran Vidhi" might not have undergone. Respondent is directed to undertake aforesaid exercise within a period of Four Weeks from the date of receipt of writ of this order.

6. Rule is made absolute accordingly. No costs.

06.02.2003 [C.K. BUCH, J]
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